

**DOCKET NO. DIXI01-00015**  
**Customer No. 23990**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of : Paul Hayward Kelly, *et al.*  
Serial No. : 10/678,190  
Filed : October 6, 2003  
For : PRODUCT SUPPORT AND DISPENSING SYSTEM FOR  
A VENDING MACHINE  
Group No. : 3653  
Examiner : Michael E. Butler

**MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO RESTRICTION REQUIREMENT**

In response to the Restriction Requirement mailed July 10, 2008, Applicants provisionally elect the claims of Group I, claims 1-16, WITH TRAVERSE.

The Examiner asserts that group I, Claims 1-16 of the present application, is drawn to an adjustable bail cap for a vending machine and group II, Claims 17-21, is drawn to a method for adjusting a vending machine stack blocking outlet size. The Examiner further acknowledges that the two groups are related as a process and an application for its process, but asserts that the two are distinct because (1) the process can be practiced by another materially different apparatus or by hand,

or (2) the apparatus as claimed can be used to practice another and materially different process. The MPEP § 608.05(e) states that “[t]he burden is on the examiner to provide reasonable examples that recite material differences.”

Regarding the first point, the Examiner states “process II separate utility such as limiting a product size that may be dispensed.” The Applicants note that this statement fails to identify a materially different apparatus from the apparatus of Group I that could be used to practice the process of Group II, or to assert that the process could be practiced by hand. As such, the Examiner has failed to support the assertion that the process can be practiced by another materially different apparatus or by hand.

Regarding the second point, the Examiner states that “the apparatus or invention I has separate utility such as vending items from a vending machine stack of a preselected size.” The Applicants respectfully submit that vending items of a preselected size is not a materially different process than the process of Group II, adjusting a product dispensing system for a vending machine to accommodate various sized product containers.

As such, the Applicants respectfully submit that the Examiner has failed to establish that the product and process of groups I and II are distinct and request that the Examiner withdraw the restriction requirement.

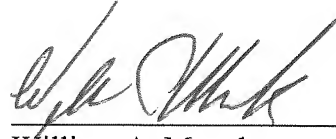
If any issue arises, or if the Examiner has any suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *wmunck@munckcarter.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK, CARTER P.C.

Date: Aug. 11, 2008

  
\_\_\_\_\_  
William A. Munck  
Registration No. 39,308

P.O. Drawer 800889  
Dallas, Texas 75380  
Phone: (972) 628-3600  
Fax: (972) 628-3616  
E-mail: *wmunck@munckcarter.com*